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8 IN THE UNITED STATES DISTRICT COURT  
9 FOR THE EASTERN DISTRICT OF CALIFORNIA  
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11 TEODORA PADILLA,

No. CIV.S-04-1885 DAD

12 Plaintiff,

ORDER AND

13 v.

FINDINGS AND RECOMMENDATIONS

14 JO ANNE B. BARNHART,  
15 Commissioner of Social  
Security,

16 Defendant.  
17 \_\_\_\_\_/

18 By an order filed February 2, 2005, plaintiff was directed  
19 to return the necessary documents for service to the United States  
20 Marshal's office within thirty days. The time period has now  
21 expired, and it has come to the court's attention that the United  
22 States Marshal is not in receipt of the necessary materials.

23 On June 7, 2005, the court issued an order to show  
24 requiring plaintiff to show cause in writing within twenty days why  
25 this case should not be dismissed for lack of prosecution. Plaintiff  
26 was cautioned that failure to do so would result in a recommendation

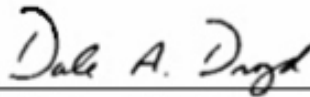
1 that this action be dismissed. The time period has now expired and  
2 plaintiff has not responded to the court's order despite a courtesy  
3 call placed to plaintiff's counsel by a member of the court's staff  
4 on July 20, 2005. Accordingly,

5 IT IS HEREBY ORDERED that this action shall be assigned a  
6 United States District Judge randomly selected by the Clerk of the  
7 Court.

8 IT IS HEREBY RECOMMENDED that this action be dismissed  
9 without prejudice. See Fed. R. Civ. P. 41(b); L.R. 11-110.

10 These findings and recommendations are submitted to the  
11 United States District Judge assigned to the case, pursuant to the  
12 provisions of 28 U.S.C. § 636(b)(1). Within twenty days after being  
13 served with these findings and recommendations, any party may file  
14 written objections with the court and serve a copy on all parties.  
15 Such a document should be captioned "Objections to Magistrate Judge's  
16 Findings and Recommendations." Any reply to the objections shall be  
17 served and filed within ten days after service of the objections.  
18 The parties are advised that failure to file objections within the  
19 specified time may waive the right to appeal the District Court's  
20 order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

21 DATED: July 28, 2005.

22 

23 DALE A. DROZD  
24 UNITED STATES MAGISTRATE JUDGE

25 DAD:lg  
26 Ddadl/orders.padilla1885.f&r.assign